*** THE HON'BLE SRI JUSTICE V.V.S.RAO**

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+ WRIT PETITION No.25406 of 2005

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%Dated 08-12-2005

Nekkalapudi Ramakrishna Pratap, S/o. Raghunayakulu,
R/o. Badampudi Village, Ungutu Mandal, West Godavari District.

..... PETITIONER

VERSUS

$ The District Collector-Cum-Arbitrator, West Godavari District at Eluru,

Andhra Pradesh, and another.

.....RESPONDENTS

! Counsel for Petitioner: Mr.P.Jagadishchandra Prasad.

^Counsel for Respondents: GP for Land Acquisition

GP for Arbitration

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>HEAD NOTE:

? Cases referred

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25406 of 2005

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Dated:08.12.2005

Between:

Nekkalapudi Ramakrishna Pratap, S/o. Raghunayakulu,
R/o. Badampudi Village, Ungutu Mandal, West Godavari District.

..... PETITIONER

AND

The District Collector-Cum-Arbitrator, West Godavari District at Eluru,

Andhra Pradesh, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25406 of 2005

ORDER:

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The petitioner's land was acquired by the National Highways Authority of India under the provisions of Sections 3A to 3J of the National Highways Act, 1956 (for short 'the Act'). The District Collector, who is the authority competent to adjudicate the claims for enhancement of the amount awarded by the competent authority under Section 3G(5) of the Act, by proceedings dated 29.09.2005, dismissed the claims of the petitioner and confirmed the award passed by the Land Acquisition Officer. The said proceeding of the District Collector-cum-Arbitrator under the Act is assailed in the writ petition.

Section 3G of the Act deals with determination of the amount payable as compensation in the event of person's land being acquired by the National Highways Authority. The same reads as under.

> **3G. Determination of amount payable as compensation –**
>
> (1) Where any land is acquired under this Act, there shall be paid and amount which shall be determined by an order of the competent authority.
>
> (2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent of the amount determined under sub-section (1), for that land.
>
> (3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.
>
> (4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.
>
> (5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

When the land is acquired under the Act, the competent authority shall determine the amount which shall be payable to the land owners in accordance with the principles

contained in sub-section (7) of Section 3G of the Act, the aggrieved person may approach the Arbitrator appointed by the Central Government in accordance with Section 3G(5) of the Act. The Act provides that the provisions of the Arbitration and Conciliation Act, 1996 (for short 'the Arbitration Act') shall apply to every arbitration under the Act. In this case, there is no denial that the District Collector is appointed by the Central Government as Arbitrator for the purpose of redetermination under Section 3G(5) of the Act. Applying the procedure under the Arbitration Act, therefore, a person aggrieved by the proceedings of the Arbitrator under Section 3G(5) of the Act has to necessarily invoke the provisions of Section 34 of the Arbitration Act, and a writ petition is not a proper remedy.

It is also brought to the notice of this Court by the learned Assistant Government Pleader for Revenue (Land Acquisition) that as per Section 3J of the Act the provisions of Land Acquisition Act, 1894, shall not apply for the acquisition under the Act, and therefore, Section 3G of the Act alone is a comprehensive provision. If any person is aggrieved by the compensation determined or redetermined by the authorities under Section 3G(3) of the Act or 3G(5) of the Act, a remedy lies under Arbitration Act, and in a writ petition this question cannot be adjudicated. It is settled law that when statute provides for depriving a citizen of his/her rights and also provides the necessary procedure to be followed for redressal of such grievance, the same procedure should be followed. Therefore, the writ petition cannot be entertained.

Though the learned Counsel for the petitioner made submissions for some time, having regard to the clear provisions of the Act as contained in Section 3G(6) of the Act, he seeks permission to withdraw the writ petition with a liberty to file an appropriate application under Section 34 of the Arbitration Act before the civil Court.

The Writ Petition, with the above observation, is dismissed as withdrawn with a liberty to file an appropriate application under Section 34 of the Arbitration Act before the civil Court. No costs.

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(V.V.S.RAO, J)

08.12.2005

Note: 1) Issue C.C in one week.

2) LR Copy to be marked.

B/o.

vs